

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

**ENVIRONMENTAL PROTECTION DIVISION
OF THE NEW MEXICO ENVIRONMENT DEPARTMENT,
Complainant,**

NO. AQB OCC-2415-1301 (NOV)

**OCCIDENTAL PERMIAN, LIMITED,
Respondent.**

SETTLEMENT AGREEMENT AND STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order (“Final Order”) is entered into between the Environmental Protection Division (“Division”) of the New Mexico Environment Department (the “Department”) and the Respondent, Occidental Permian, Limited (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by the Respondent. The Department alleges violations of the New Mexico Air Quality Control Act (“AQCA”), NMSA 1978, Sections 74-2-1 to 74-2-17; the Air Quality Control Regulations (“AQCR”), 20.2. NMAC (“Regulations”), and Air Quality Permit Number 2656-M5R1 (“Permit”).

I. BACKGROUND

A. PARTIES

1. The Department is an agency of the executive branch of the State of New Mexico, created pursuant to NMSA 1978, § 9-7A-4. The Division is an organizational unit of the Department. The Secretary of the Department has delegated to the Director of the Division the authority to seek administrative enforcement of the AQCA and the AQCR, including assessing

civil penalties for violations thereof. NMSA 1978, § 74-2-12. The Air Quality Bureau (“Bureau”) is an organizational unit of the Division.

2. The Respondent is a limited partnership doing business in New Mexico at the North Hobbs Unit Reinjection Compression Facility and West Injection Battery (collectively, “Facility”), located in Lea County, New Mexico. The function of the Facility is to clean and compress field gas to re-injection pressure, process natural gas liquids, and separate oil from water.

B. HISTORY AND ALLEGED VIOLATIONS

3. Facility Specific Requirement A106.A of the Permit provides in relevant part, “The following table(s) list the emission units and their allowable emission limits. ... “ An excerpt from Table 106.A is set forth below.

Table 106.A: Allowable Emissions

Unit No.	NOx pph	CO pph	VOC pph	SO₂ pph	H₂S pph
WIB FLR	0.012	0.031	0.0095	0.0018	9.1 E-7

4. Between December 2, 2013 and January 27, 2014 the Bureau received nine Final Excess Emission Reports (EERs) from the Respondent for its North Hobbs Reinjection Compression and Injection Tank Battery. The Final EERs included excess emission calculations for flare Unit WIB-FLR, indicating instances of NOx, CO, VOC, SO₂ and H₂S exceeding the pound-per-hour allowable hourly rates.

5. On October 23, 2014, the Bureau issued to the Respondent Notice of Violation OCC-2415-1301 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of the failure to limit emissions to the allowable hourly rates, which is a violation of Permit Facility Specific Requirement A106.A and Table 106.A.

6. The NOV included a Corrective Action Verification (“CAV”) requiring the Respondent to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

7. On November 21, 2014, the Bureau received the CAV from the Respondent. The CAV was determined to be satisfactory by the Bureau on November 28, 2014.

8. The Parties have engaged in settlement discussions to resolve the NOV without further proceedings.

II. COMPROMISE AND SETTLEMENT

A. GENERAL

9. The Respondent does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and the Respondent agree to the terms and conditions in this Final Order to resolve the alleged violations in the NOV.

10. The Parties admit jurisdiction and consent to the relief specified herein.

B. CIVIL PENALTY

11. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the seriousness of the alleged violations and Respondent’s good faith efforts to comply, the Parties agree that the Respondent shall pay a civil penalty of \$12,924.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

12. Payment shall be made to the *State of New Mexico General Fund* by certified or corporate check and sent to the following address:

New Mexico Environment Department
Air Quality Bureau
c/o Compliance and Enforcement Manager
525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico 87505

13. If the Respondent fails to make timely and complete payment of the civil penalty, the Respondent shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. The Respondent shall not contest or dispute in any way the stipulated penalty of \$250.00 per day in the event that the Department brings an action against the Respondent for the failure to make timely or complete payment.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

14. This Final Order shall not be construed to prohibit or limit in any way the Department from requiring the Respondent to comply with any applicable state or federal requirement not resolved herein. This Final Order shall not be construed to prohibit or limit in any way the Department from seeking any relief authorized by the AQCA for violation of any state or federal requirement applicable to the Respondent not resolved herein. This Final Order shall not be construed to prohibit or limit in any way the Respondent from raising any defense to a Department action seeking such relief.

B. MUTUAL RELEASE

15. The Parties mutually release each other from all claims that each party raised or could have raised against the other regarding the facts and violations alleged in the NOV. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

16. The Respondent shall assume all costs and liabilities incurred in performing all obligations under this Final Order. The Department, on its own behalf and on behalf of the State of New Mexico, does not assume any liability for the Respondent's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

17. This Final Order shall become effective on the date it has been signed by the Department Secretary.

18. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when the Respondent has fulfilled the requirements of this Final Order. The reservations of rights and defenses and the mutual release in Paragraphs 14 and 15 shall survive the execution and performance of this Final Order, and shall remain in full force and effect as an agreement between the Parties.

E. INTEGRATION

19. This Final Order merges all prior written and oral communications between the Parties concerning the subject matter of this Final Order, contains the entire agreement between the Parties, and shall not be modified without the express written agreement of the Parties.

F. BINDING EFFECT

20. This Final Order shall be binding on the Parties and their officers, directors, employees, agents, subsidiaries, successors, assigns, trustees, or receivers.

G. AUTHORITY OF SIGNATORIES

21. The persons executing this Final Order on behalf of the Respondent and the Division, respectively, represent that he or she has the authority to execute this Final Order on behalf of the Respondent and the Division.

H. SIGNATURE AND COUNTERPARTS


22. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT

By: 
MICHAEL VONDERHEIDE
DIRECTOR

Date: 8/26/15

OCCIDENTAL PERMIAN, LIMITED

By: 
Print Name: Jeff F. Simmons
Print Title: President and General Manager, Permian EOR Business Unit

Date: 7/31/2015

STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and the Respondent Occidental Permian, Limited, is hereby incorporated herein and **APPROVED AS A FINAL COMPLIANCE ORDER** issued pursuant to NMSA 1978, §74-2-12.

for *Butch Longate*
RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT

Date: *9/1/15*